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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/775,323	02/11/2004	Janice Z. Olsen	3788-16	8553

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EXAMINER

SUHOL, DMITRY

ART UNIT PAPER NUMBER

3712

DATE MAILED: 09/30/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

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Office Action Summary	Application No. 10/775,323	Applicant(s) OLSEN ET AL.	
	Examiner Dmitry Suhol	Art Unit 3712	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1) ☐ Responsive to communication(s) filed on ____.

2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.

3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4) ☒ Claim(s) 1-9 is/are pending in the application.

 4a) Of the above claim(s) ____ is/are withdrawn from consideration.

5) ☐ Claim(s) ____ is/are allowed.

6) ☒ Claim(s) 1-9 is/are rejected.

7) ☐ Claim(s) ____ is/are objected to.

8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

9) ☐ The specification is objected to by the Examiner.

10) ☐ The drawing(s) filed on ____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

 a) ☐ All b) ☐ Some * c) ☐ None of:

 1. ☐ Certified copies of the priority documents have been received.

 2. ☐ Certified copies of the priority documents have been received in Application No. ____.

 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)	4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____.
2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)	5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)
3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date <u>5/14/04</u> .	6) <input type="checkbox"/> Other: ____.

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 6-9 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Regarding claim 6, step (f) is unclear. The step currently involves the student imitating a teacher stamping of step (e), however step is a teacher erasing a complete letter image. Therefor it is not clear if the applicants intend to claim a step of a student imitating the erasing of step (e) of the stamping of step (d). For purposes of examination it is assumed that applicants intend to claim the student imitating a stamping step of step (d).

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1 and 5 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki '484 in view of Brinkley '883. Yamazaki discloses a magnetic display

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apparatus containing most of the elements of the claims including with reference to claim 1, a housing (2), a writing surface (10), a means for displaying an image responsive to magnetic contact on the writing surface (figure 5A), a means for erasing the image (elements 24a and 24). Yamazaki further discloses the use of magnetic stamps which are appropriately sized relative to the writing surface (col. 3, lines 59-61) as required by claim 1.

Regarding claim 5, with respect to a writing member being sized and shaped to resemble a piece of chalk, it is considered, lacking any distinguishing features, that the writing member (22) encompasses by such a limitation since chalk comes in a variety of sizes and normally has a cylindrical shape of a pen.

Yamazaki fails to teach at least four stamps shaped as a big line, little line, big curve, and little curve as required by claim 1. However, Brinkley discloses a magnetic display apparatus (figure 5 and col. 1, lines 33-40) which teaches that it is known to provide a plurality of members used for display in the shape of a big line (10), little line (11), big curve (18), and little curve (19), among others, for the purpose of teaching the construction and recognition of letters of the alphabet (col. 2, lines 46-48). Therefore it would have been obvious to one having ordinary skill in the art to incorporate the shapes of the magnetic display members of Brinkley with the stamps of Yamazaki for the purpose of teaching the construction and recognition of letters of the alphabet, especially since both devices are drawn to display devices utilizing magnetic features, where both devices are concerned with a child learning letter characters (see Yamazaki, col. 2, lines 16-41 and figure 4).

Claims 2-3 are rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki '484 and Brinkley '883, as stated above, and further in view of Gonzalez '355. Yamazaki, as modified by Brinkley, fails to disclose a visual cue in an upper left hand corner region of the housing as required by claim 2, where the visual cue is a happy face as required by claim 3. However Gonzalez discloses an educational toy having a housing 21, which teaches that it is known to provide a visual cue being a happy face (character 22) in an upper left hand corner region of a housing (21) for the purpose of providing an educational device which provides visual excitement (col. 1, lines 53-56). Therefore it would have been obvious to incorporate a visual cue being a happy face in the upper left hand corner region of the housing of Yamazaki for the purpose of provides visual excitement to the user, thereby enhancing interest in the device, especially since Yamazaki is clearly concerned with keeping a users interest in his device (col. 2, lines 16-40).

Claim 4 is rejected under 35 U.S.C. 103(a) as being unpatentable over Yamazaki '484 and Brinkley '883, as stated above, and further in view of Park '019. Although Yamazaki, as modified by Brinkley, discloses a magnetic writing tool (22) as required by claim 4, the reference fails to teach a cord attaching the writing tool to the housing. However Park discloses a display apparatus, which works by the migration of charged particles responsive to a writing member (figures 2-5), much like the device of Yamazaki, which teaches that it is known to manufacture such a device with a writing

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member attached to the housing through a cord (figure 1, pen 18 is attached to housing 12 through a cord 19). Therefore it would have been obvious to manufacture the device of Yamazaki, as modified by Brinkley, with the writing member attached to the housing by a cord for the purpose of providing a connection whereby the writing member will not be misplaced.

Allowable Subject Matter

Claim 6 would be allowable if rewritten or amended to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and incorporating all of the current limitations of the claim.

Claims 7-9 would be allowable if rewritten to overcome the rejection(s) under 35 U.S.C. 112, 2nd paragraph, set forth in this Office action and to include all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Dmitry Suhol whose telephone number is 703-305-0085. The examiner can normally be reached on Mon - Friday 9am-5:30pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Derris Banks can be reached on 703-308-1745. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Dmitry Suhol
Dmitry Suhol